LAND REVENUE CODE BILL.

Mr. Rajaram Row.—Sir, The first item of business on the agenda which has been circulated by the Secretary is an application I have to make to the Council for permission to introduce a Bill which if passed into law will be known as the Revenue Code or more correctly the Land Revenue Code of Travancore. That the proper administration of the land revenue is one of the chief functions of the Governments in India is a matter which is well known, and the enactment of suitable rules and regulations for such administration is one of the most important duties of the Legislature. Although a regular system of legislation on modern lines was started so far back as 1010 of the Malabar era and 125 Regulations have been passed during the past 70 years, I find very few of those Regulations have a bearing on the Revenue administration of the country. True, we have Regulations for Revenue Recovery, about Boundary marks, Irrigation and a few minor matters but they deal with only a few of those subjects which a department of Land Revenue is called upon to administer every day. The legislation of the past 7 decades has been mostly devoted to civil and criminal matters, and to improving the laws regarding them so as to bring them in line with similar legislation elsewhere and I will not be wrong when I say that legislation on Land Revenue matters has not received that share of attention which it deserves. The result is that when important questions arise touching them, both the Revenue officers of the State and the people whose interests are involved have found it difficult to lay their hands on the exact rule or law which should govern the solution of such questions; and very often even the officer who possesses both the patience and the perseverance to plunge into the details of the working of the Revenue department finds himself wide at sea and turns aghast at the impossibility of the task he has assigned to himself. When I state all this let me not be understood as saying that the Revenue administration of the country has been and is being carried on quite arbitrarily and without the aid of any rules or regulations. Far from it; our ancestors were quite as wise as we are, nay very much wiser, and laid down very useful rules which met the requirements of their times. In the purely Hindu period of the country's government, we had Chattavariolas and Vilambarams followed by Hukumnamas in the next period when Mahomedan ideas and systems influenced the administration and lastly we have had the period of circulars, proceedings, Royal proclamations and notifications and all of these contain very excellent principles and very useful rules of procedure. But they are lying scattered and buried among a huge and useless mass of records and but for Mr. Krishna Row's very valuable Hand-book, we could not have had them in any connected form whatever; but it will be admitted that even his work is incomplete; and another objection raised against these old Hukumnamas and rules is that not being enacted in the form of Regulations to which the present generation is accustomed they cannot claim the same authority as these latter. The time has therefore arrived when this state of things should be remedied. All the scattered fragments of our revenue laws should be gathered together and built into one comprehensive Code. In the process of reconstruction we should have to embody in our Code such provisions of the most recent and advanced Revenue Regulations of other countries as are applicable to our circumstances and conditions, so as to make the rules of our Revenue administration both scientific and up to date. My ambition is to draw up a Bill which will help in attaining this object, and if the Council will give me the permission I seek, I will place on this table at the earliest opportunity possible such a Bill which after being touched up and put into proper shape by the combined wisdom of this Council may if approved by His Highness the Maha Rajah supply a great want and may I also hope become an important and valuable addition to our Statute book. I now formally ask leave to introduce this Bill.

Permission was granted accordingly.

PLANTERS LABOUR BILL.

Mr. Rajaram Row.—The next item of business is the consideration of the principle of the Planters Labour Bill. I assure the Council I will not take much of their time by unnecessarily lengthy remarks and shall deal with the subject as

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in the interests of the planting industry of the country. But a condition has been laid down in that section which has to be complied with, before its provisions could be extended to the processes of a Native State and that condition is that such State shall have an Act of its own for the enforcement of labour contracts. Except the Regulation for criminally dealing with breaches of contracts, we have no other law of the kind contemplated by the Madras Act and it will be admitted that that Regulation will not answer the purpose. Hence the necessity for fresh legislation here and no Regulation except one based exactly on the lines of Act I of 1903 will answer and it was this reason which must have led the late Dewan to promise to the planters the adoption of that Act. Let us now see whether the law we are adopting is a good or a bad one and whether there is any serious hardship in adopting it. Having read it as closely as possible I for one think that Act I of 1903 has been drawn up on very equitable principles and as was observed by His Excellency the Governor when winding up the first day's discussions—"The object of the Bill is two-fold : to ensure good "and fair treatment to the labourer in sickness and in health and to protect the em- "ployer from the serious losses to which he has hitherto been exposed through the "dishonesty, extortion or caprice of the labourer." Even the best friend of the labourer cannot say that the interests of the latter have been overlooked. Proper safeguards to protect such interests have been provided. Section 4 lays down that contracts shall be signed in the presence of a Magistrate or other officer of Government and that the labourer shall have its terms explained to him, and if he is unfit to undertake a journey to the hills, he is not to go there. By section 5, the maximum statutory term of his contract is limited to one year and any contract entered into against the terms of the statute becomes void. Sections 9, 11, 21 and 22 provide for the determination of such contracts on the ground of illness or incapacity of the labourer, or failure of the employer to pay wages or owing to ill-treatment of the labourers, and section 12 prescribes that the contracts of the labourer's relatives shall also terminate where he has to leave the estate. During a labourer's illness or incapacity for work caused by accident, he will not be left to starve or to shift for himself, for section 14 makes provision for his maintenance by the planter and both food and sanitary accommodation and water supply are guaranteed for him by section 15.

I have not made any material alterations in adopting that Act as the Bill which is before the Council except in one respect. I had omitted section 44 as being unnecessary because criminal processes issued in British India have as a matter of fact currency in Travancore when they come through the British Resident but this omission has been looked upon as objectionable and I have therefore to give that section a place between sections 43 and 44 of my Bill. It will run as follows :—

"Our Government may, by notification, order that processes issued by the courts, or by any specified courts, in British India under any Act for the enforcement of labour contracts in force in British India shall, subject to such conditions and restrictions as may by such notification be prescribed, be executed within Travancore as if they were processes issued under this Regulation."

I now ask the Council to read the Bill and to add the above section to it.

Seconded by Mr. Mahadeva Aiyar.

Mr. Kuruvila —The discussion of the principle of this Bill being now before the Council, I submit that I approve of the vital principle of the Bill. I shall not at this stage take up the time of the Council by going into the details. I, however, think it my duty to make at least a passing reference to two or three subsidiary matters which seem to me to bear upon the principle of the Bill and also to jeopardize the interests of the people of the low country to the advantage of those of the High Ranges. I would ask the attention of the Council especially to the provisions contained in sections 22, 36 and 38 of the Bill. It is not quite clear to me whether section 22 does not make offences not compoundable under the Criminal Procedure Code compoundable at the instance of the labourer aggrieved. In clause (c) of the same section, we find the words "has been subjected to ill-usage by such planter." The term "ill-usage" has not been defined either in the Penal Code or

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in the present Bill. I would suggest for the consideration of the Select Committee that the term be defined so that there may be no difficulties in the practical working of the section.

Section 36 clause (1) renders the enticing, harbouring or the employing of any labourer, who has in contravention of the terms of his labour contract left his employer, punishable with imprisonment. Under existing conditions several respectable and innocent land-lords who employ labourers without notice of the fact that such labourers have in contravention of their labour contracts left their original employers run the risk of becoming liable under the penal provisions of this section. In certain seasons many Pulayas go as coolies to the High Ranges with or without the knowledge of the persons in whose properties they live. These return, it may be, without duly performing the labour contracts which they have entered into with their former employers. If such labourers are employed after their return by innocent and respectable persons, I submit that they may render themselves liable under this section.

Section 38 makes the abetment of any offence under this Bill punishable in the same manner as the offence itself.

All these provisions tend, as already observed by me, to operate against the interests of the people of the low country to the advantage of those in the High Ranges. My only wish is that these matters should receive careful consideration at the hands of the Select Committee.

Mr. Sesha Aiyar:—I regret I cannot give my support to the principle of this Bill. It is against the spirit of modern economics and modern legislation. It is opposed to modern social tendencies, and is inconsistent with the aspirations of progressive communities. It is a class legislation, conceived in the interest of the strong. It is directed against the free action of labour. In order to secure labour for a special class of employers, this Bill declares that the labourer shall in effect cease to be a free citizen of the State. We are asked to declare that he shall forfeit his civil rights; and we are further asked to declare that a sword of Damocles shall perpetually hang over his head because his only available asset is his labour force. Does labour deserve such treatment? Labour is the source of value. What constitutes value is the human labour embodied in commodities. Now, it is a characteristic feature of the capitalistic system of production that while the capitalist owns and controls the means of production, the free labourer has lost all ownership in land and capital and has nothing to depend on except his wage. According to some economists, capital is the accumulation of unpaid labour appropriated by the capitalist. The chief aim of the capitalist is the increase of wealth through the accumulation of his profits, and such accumulation is secured by the appropriation of surplus value. This appropriation is a phenomenon of very great antiquity in human society. Till comparatively recent times, compulsory personal servitude appears to have been the lot of a large portion of mankind. As Sir Henry Maine observes:—"The simple wish to use the bodily powers of another person as a means of ministering to one's own ease or pleasure is doubtless the foundation of slavery, and as old as human nature." Wherever society depended on the labour of slaves, serfs or bondmen, the appropriation of the results of another man's labour was openly done. In the capitalistic system, however, the appropriation is disguised under the form of free contract. The workman is supposed to dispose of his labour force in return for his wage; but the net value of his labour force as utilized by the capitalist is in excess of his wage. The history of industrialism discloses how the capitalist in his eagerness to obtain and accumulate this surplus value, in his endeavour to swell his own profits at the cost of the labourer, has utilized methods offensive alike to laws of man and to laws of nature. The fearful prolongation of the hours of labour, the merciless exploitation of women and of children, and the huddling together of labourers in insanitary surroundings and under immoral conditions are historical facts too well-known to be easily forgotten. The latter half of the 19th century saw a change coming over the spirit of the dream. A new era of democracy was born; and the proletariat, while aspiring to political power, also acquired control over the economic functions of society. The tendency in the civilized world now is to expropriate the private capitalist. In accordance with the inherent laws of social evolution

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society is tending to pass into the socialistic stage, where the people, independently of the will and purpose of individual men, appropriate and manage the means of production in the interests of society. Such being the spirit of the times, any labour legislation that does not harmonize with it is undesirable. The day is long past for investing any form of slavery with legal sanction. In Europe and America, the process of emancipation of the labourer from the grip of the capitalist has steadily gone on for years. In England, the Master and Servants Act of 1867, commonly known as Lord Elcho's Act, was at the time it was passed eulogized by the Prime Minister as securing valuable rights for workmen. No doubt it softened considerably the severity of the labour statutes till then in force; nevertheless it failed to give satisfaction to workmen. A Royal Commission was therefore appointed and in 1875 the Commissioners reported that the proceedings in all cases relating to the law of master and servant should be altogether divested of a penal character and should assume that of a civil proceeding for specific performance or recovery of damages. Within a few months of the presentation of the report, the 'Employers and Workmen Bill' was introduced by Government, and when it was passed into law, it went even further than the recommendation of the Commissioners, for it took away the right of enforcing a contract of labour and made it a mere question of recovery of damages. The same Prime Minister that expressed gratification at Lord Elcho's Act now observed in all truth that the employer and the employed were for the first time in the history of England placed under equal laws. Subsequent statutes like the Employer's Liability Act and the Workmen's Compensation Act have also been passed enlarging the rights of the workmen and investing the employers with additional obligations. In France, contracts of work and service stand on the same footing as other contracts, so that the breach of such contracts is the subject of a claim for damages, but not of the application of the criminal law. The same is the case in the Netherlands, Sweden, Norway, Russia, Austria-Hungary, Prussia, Italy and Portugal. In Switzerland, there is no criminal liability except when the dereliction of duty involves consequences injurious to the public welfare or the life or health of other persons. Turning to the United States of America, "there are," as the English representative at Washington wrote to the Foreign Office in 1869, "few countries in which the working man is held in such regard as in those States." There has been no legislation there making the breach of a contract of labour or service the subject of criminal liability. We thus see that in European countries and in the United States of America, the workman possesses the same legal status and as a citizen the same rights and privileges as the capitalist; and his contracts with his employer for rendering labour are like any other contract the subject of civil remedies and not of criminal responsibility. He is not, merely because his only commodity is his labour force which he has to dispose of for his wage, placed under special disabilities. Instead of coercive laws against the workman, laws have been framed to protect him more effectually against his employer.

While such is the condition elsewhere, let us see what is the nature of the Bill the principle of which we are asked to affirm to-day. It should be remembered that in this country, as in European countries or the United States of America, there are no labour organizations to protect the interests of the labourer, nor are our workmen educated and capable of understanding or taking care of their rights and liberties. The responsibility, therefore, of safeguarding the position of the labourer lies more heavily on Government in this country than in Europe or America. If Government therefore undertook to legislate in respect of labour, one would be justified in expecting that the legislation would be directed to better the condition of the labourer, to protect him against possible unfair treatment by his powerful employer, and to minimize the restrictions on his personal liberty as a free subject. On the other hand, the Bill before us only forges gnawing fetters for him. There are no doubt a few provisions for securing fair treatment for the labourer, but they are as naked nothing compared with the exceptional protection granted to the planter. The present Bill has for its model the Madras Act No. I of 1903, which in several respects is even severer than the Assam Labour Act. The Madras Act, as everybody knows, had for its basis the report of the South Indian Planters' Commission, which confined its enquiry to the varying conditions under which the coffee, tea and cinchona industries were carried on; but the Madras Act extended the application of its penal provisions to labour on pepper and cardamom plantations, and even petty estates

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of 10 acres were brought under its operation. That is just what the Bill before us also does. Under the Bill, as under the Madras Act, contracts for two months' labour need not be executed in the presence of a Magistrate. Who is to explain the terms to the ignorant coolie? In respect of these contracts, the employer has exactly the same rights against the labourer and possesses the same facilities to enforce them as he has in respect of contracts of labour for longer periods. Besides, these contracts are not capable of being rescinded by the workman; for to enable him to rescind a contract, the labourer should give three months' notice and he should in addition show reasonable grounds to the satisfaction of the Magistrate for determining his contract. Now why should it be necessary to give reasons to the satisfaction of the Magistrate before rescinding the contract? Has a coolie sold himself without hope of redemption, so that he has, whether he likes it or not, to remain bound to his employer? Is it suggested that during the period of the contract, feelings, temper and character should cease to have any influence? Even the Government of India in its resolution dated 21st January 1899 did not intend that reasons should be given. It only stated that the labourer should be at liberty to rescind the contract at any time without notice on payment of the advances received and of any specified forfeit of money, and with notice on return only of the advances due. The Madras Act by embodying this provision made it practically impossible for the coolie to determine his contract and made him his employer's bondman, and the present Bill adopts it. I do not forget that the Bill contains a provision for determination of the contract by a labourer at any time without notice; but in that case the labourer is required to pay very heavily for the luxury; for he has not only to satisfy the Magistrate that there are sufficient grounds for rescinding the contract and to pay the amount that may be adjudged to be due to his employer, but he has further to pay a penalty of three annas for every working day of the unexpired period! The principle of these provisions is indefensible. As regards the capacity of a person in point of age to enter into a binding contract of labour, the Bill overrides the rule of the Indian Contract Act by fixing the minimum age at 16, an age at which it cannot be pretended the workman's powers of discretion can be mature. Again, I venture to hold that in the interests of social purity it is not desirable that unmarried women or even married women when unaccompanied by their husbands should be declared competent to enter into labour contracts. Turning to other provisions, we find that Government may declare particular estates to be insanitary, and after such declaration no labourer shall be bound by his contract to work on such estate. This is merely negative benevolence; and if the interests of the labourer be really intended to be safeguarded, it may not be amiss to legislate that planters shall incur penal consequences by employing labourers on insanitary estates. The labouring classes are not generally capable of understanding sanitary needs and sanitary defects; and their impecuniosity makes it impossible for them to resist the demand of the planter to work on his estate. Then again, though there is a nominal right reserved to the labourer to make a complaint of ill-treatment against his employer, it is made practically incapable of exercise by the further provision that, in case the labourer fails to succeed, he shall forfeit to his employer a sum equal to or not exceeding double the amount of his wages for the days he has been absent from his work in consequence of his complaint. It is all right to say that the employer shall be liable to punishment on conviction; but what are the practical facilities for securing such conviction? The labourer should have money, should collect his evidence, employ a vakil and generally adopt the expensive machinery familiar to litigants before he can prefer a complaint; and he should also be prepared to pay a penalty if he does not succeed. From the frequency with which the Bill makes the labourer liable to fines, penalties and payment of compensation to the employer in various circumstances, one will imagine that the workman of the Bill is a man of money rather than a mere labourer for wage. There seems to be also a further assumption in the Bill that the planter will always be fair and just, considerate and sympathetic, while the labourer will always try to evade his obligations and to defraud his employer. How else is the difference in the nature and amount of punishment prescribed by the Bill for the workman and the employer respectively to be explained? For almost every form of breach or dereliction, the labourer is declared liable to imprisonment, while for the employer the only form of punishment prescribed is fine. Indeed even in cases where a mere fine will be a severe punishment, the Bill declares that the labourer may be liable to imprisonment.

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If, for example, a labourer fails to be present on the estate without reasonable cause, he shall not only forfeit his wages for the days he has been absent, but he shall also pay his employer a compensation at the rate of not more than four annas for each day of his absence and may in addition be sentenced to undergo imprisonment. So again, a labourer who without reasonable cause fails to attend the estate at the time specified in his contract shall be committed to jail, and out of the fine that may be imposed, the employer may be compensated. In more than one instance, the Bill authorizes the payment to the employer of compensation in lieu of labour not rendered out of the fine that may be imposed on the labourer; and thus Magistrates are virtually invested with the power to exercise certain functions that belong to the Civil Courts. The Bill is not content with rendering the labourer liable for fines and imprisonment. The period for which he has been incarcerated shall be added to the term for which he has contracted to labour and he shall be liable to work out his contract for such additional term also for the benefit of the planter to whom he shall be handed over as if he were a mere chattel. If after undergoing sentence the labourer refuses to complete his contract, he shall be liable to further prosecution and punishment; for no conviction or punishment under the Bill has the effect of releasing the labourer from the terms of the contract. Even those who employ a labourer who has against the terms of his contract left a planter shall be liable to punishment which may take the form of imprisonment. Even the limits of civil liability in the case of those who induce servants to desert service cannot be said to have been definitely settled; but under the Bill, a person who, it may be from purely humane considerations, induces a labourer to give up his contract shall be dealt with as a felon. The Bill also provides that all sums made payable to the employer shall be realized by the distress and sale of the labourer's moveable property.

Such are the penal consequences to which the labourer is subjected under the Bill. While it imposes on him diverse disabilities, does it secure for him any positive benefit? Is there any provision fixing the minimum wage payable to the labourer, restricting the hours of labour or providing for a minimum rest? I regret there is absolutely none.

I have considered the Bill at such length, because I wanted to show how absolutely indefensible in principle the whole Bill and almost every part of it is. A mere breach of contract ought not to be an offence but only the subject of a civil action. We have already made a questionable departure from this rule in the provisions of the Breach of Contract of Service Bill, and made the position of the labourer anything but desirable. Let us not make it more galling by converting him into a slave; for the effect of this Bill is to legalise slavery. He is a free citizen and as such has liberties which he has a right to enjoy; and we take on ourselves an awful responsibility in legislating to deprive him of those liberties. The learned Mover says in the Statement of Objects and Reasons that the Bill is necessary in the interests of the growth and preservation of the planting industry. We find that even among the planters there are those who do not want the Bill as it 'will upset the previous good relations between employers and employed.' Such a Bill will not be tolerated in England, the home of the planters; why should we have it then here, in the home of the labourer? The Indian labourer goes to Mauritius and Natal, Ceylon and the Strait Settlements; and he will certainly go to the estates on the hills, if the wages offered be sufficiently tempting. The Bill offends all notions of humanity and all principles of progressive legislation. I cannot support the principle of the Bill.

Mr. Ramier.—Sir, At this stage I would say but a few words to show what my attitude is towards the Bill. As I understand it, the question we have to consider in discussing the principle of a Bill is whether there is a necessity for such a measure on the lines suggested. I think it is necessary on the one hand to safeguard the interests of the planter and on the other to protect the labourer from the hardships to which he may be subjected at the hands of the planter. This Bill, in so far as it aims in securing these two objects is, I think, a necessary measure. Of course the various provisions of the Bill to which pointed reference has been made by my learned friend, Mr. Sesha Aiyar, deserve the most careful consideration and I have no doubt that every member of the Council must have been impressed with

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the very cogent reasons my friend has given in support of the position he has taken up, though we may not be prepared to go to the extent he has gone. But how far we ought to render assistance to the planter in his business transactions and how far we shall protect the interests of the labourer are all questions which have to be discussed and threshed out at a later stage and I have no doubt that the Select Committee to which this Bill may be referred and the Council at the time of discussing the details will fully consider these aspects of the question.

Mr. Rajaram Row.—Sir, After hearing the criticisms of my friends who have spoken against the Bill, I beg permission to say a few words by way of reply. The piece of legislation which we have undertaken is put down as an attempt at the re-enactment of slavery, and it is said that in England it would never be thought of. From the explanation I have already given and from a careful perusal of the various sections of the Bill, it will be seen that the coolie working on the estates is provided with comforts and conveniences which he cannot possess even in his own village or home and that any interference with his rights or liberties has been made penal, and that every facility has been given him for complaining when such interference is attempted. It should be remembered that the coolie leaves his home and goes to work on the estates of his own free will and choice, and if he feared that it is slavery he would be subjected to, he will be the last person who will go there. He also goes there after receiving advances of money from the employer, and as was remarked by the Hon'ble Mr. Stokes when he had to answer similar criticisms, "the planting industry is not a charitable concern, it is a business concern and "must be looked at not only from one side but from both sides. This Bill en- "deavours to look at it from both sides—the side of the planter and the side of "the labourer."

With regard to the next observation, I am not oblivious of the fact that such a law as we are trying to pass will not be thought of in England, for, the conditions there do not require it, but I do not see why we should travel so far away when next door to us in Southern India, where the conditions are analogous to ours, and from where therefore we often borrow our legislation, we have a law of which the present Bill is only a reproduction. Were the conditions in Southern India and Travancore to change to what they are in England, the necessity for this enactment might probably cease and it may then be time to strike it off our Statute book. I again move that the Bill be read in Council and that its principle be affirmed.

The Council having affirmed the principle of the Bill Mr. Rajaram Row proposed that the Bill be referred to a Select Committee consisting of Messrs. Govinda Pillai, Kesava Pillai, Vieyra, Ramier, Sesha Aiyar and the Mover, to report within two months.

Seconded by Mr. Kuruvila.

Carried.

LUNACY BILL.

Mr. Govinda Pillai.—I beg to propose that the Lunacy Bill which has now reached its final stage be next taken up. We have received no notice of any amendments to the Bill. I would therefore move that the Bill be passed.

Seconded by Mr. Ramier.

Mr. Mahadeva Aiyar.—With the permission of the President, I beg to draw the attention of the Council to what appears to be an inadvertent omission. Sections 16 and 17 impose upon guardians certain duties in the way of seeking the permission of the Court when they have to alienate the property of lunatics in certain cases and furnishing an inventory and annual accounts to the Court. But there is no provision for enforcing these duties. In the British Act XXXV of 1858 from which these sections have been taken, there is a separate section (section 19) which provides penalties for neglect or refusal to furnish the inventory and accounts. It is necessary to provide not only for the due performance of the duties enjoined by these sections but also against disobedience of the Court's order under these sections. I would therefore propose that the following para be added at the end of section 17 :—

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